

2005 DRAFTING REQUEST

Bill

Received: **09/27/2004**

Received By: **jkreye**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Justus**

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax, Other - miscellaneous**

Extra Copies:

Submit via email: **NO**

Pre Topic:

DOA:.....Justus, BB0075 -

Topic:

Judgment requirement for offsetting debts owed to state agenices

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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FE Sent For:

<END>

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FE Sent For:

9/28/04
END

BB0075

2003-05 Budget Bill Statutory Language Drafting Request

- Topic: Modify Judgement Requirement for Offset to State Agency Debts
- Tracking Code: (Assigned by Government Operations Team)
- SBO team: Tax & Justice
- SBO analyst: Sarah Justus
 - Phone: 7-6921
 - Email: sarah.justus@doa.state.wi.us
- Agency acronym: DOR
- Agency number: 566

05-0301

**Statutory Language Request
Wisconsin Department of Revenue**

TITLE: MODIFY JUDGMENT REQUIREMENT FOR OFFSET TO STATE AGENCY DEBTS

DESCRIPTION OF CURRENT LAW AND PROBLEM

71.93(1)(a)1.

Section 71.93 establishes a program under which state agency debts can be referred to the Wisconsin Department of Revenue (DOR) so that state tax refunds can be "set off" against, or applied to, the debt. Section ~~73.93~~ 71.93(1)(a) defines "debt" for purposes of this section. Section ~~73.93~~ 71.93(1)(a)1 specifies "an amount owed to a state agency that has been reduced to a judgment", while items 2 through 6 list debts of specific state agency programs without including the requirement for a judgment.

State agencies whose debts do not fall under items 2 through 6 have indicated that the requirement to obtain a judgment on their debts is onerous and sometimes prevents them from referring debts to the refund set-off program. The cost to obtain a judgment, and ultimately to satisfy it if collection is made, means that the program may not be cost effective for the agency, especially for debts of smaller amounts.

2003 Wisconsin Act 177 enacted in April 2004 modified similar language in section 71.935 of the Wisconsin Statutes that referred to the debts of counties and municipalities that can be referred to DOR for refund set-off. Section 71.935(1)(a) now reads "...if the debt has been reduced to a judgment or the municipality or county to which the debt is owed has provided the debtor reasonable notice and an opportunity to be heard with regards to the debt."

RECOMMENDATION FOR ACTION

Modify the language in section 71.93(1)(a)1 to correspond with the new language in section 71.935(1)(a). This will allow state agencies to refer debts without obtaining a judgment as long as they have afforded the debtors a due process opportunity to contest the debt. This would mean that state agencies could operate under the same set of rules as county and municipal governments in regard to referring debts to DOR for refund set-off.

ADMINISTRATIVE IMPACT

State agencies will find it easier and more cost effective to refer debts for refund set-off, since they will not have to obtain a judgment prior to referral. DOR may need to deal with more debts than it currently does, but there will be no difference in the actions it needs to take in relation to those debts because of this proposal.

FAIRNESS /TAX EQUITY

If enacted, this proposal will level the playing field between state agencies and county and municipal governments as far as what kinds of debts they can refer for refund set-off. Since it requires that state agencies give debtors a due-process opportunity to contest their debt before referral to DOR, it should not have an adverse effect on

debtors. In that it will make it easier for state agencies to collect debts that are rightfully owed to them, it will benefit the taxpayers of Wisconsin.

IMPACT ON ECONOMIC DEVELOPMENT

This proposal should have no impact on economic development.

FISCAL EFFECT

State agencies are required to pay 2% of the amount offset to DOR to cover the administrative costs of the refund set-off program. This fee will be sufficient to cover any additional costs related to the referral of additional debts to DOR. It is anticipated that enactment of this proposal will mean additional state agency debt collections of \$.5 to \$1 million annually.

DRAFTING INSTRUCTIONS

The language for this proposal should parallel the new language in 71.935(1)(a).

EFFECTIVE DATE AND/OR INITIAL APPLICABILITY

This proposal can be made effective immediately on passage.

INTERESTED/AFFECTED PARTIES

State agency collection managers, individuals and businesses that owe debts to state agencies.

DOR CONTACT PERSON

Vicki R. Siekert
(608) 266-9635
vsiekert@dor.state.wi.us

PREPARED BY

Vicki R. Siekert



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-03017

JK:.....

JLD

DOA:.....Justus, BB0075 - Judgment requirement for offsetting debts owed to state agencies

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

in 9-27-04

don't get

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

TAXATION

OTHER TAXATION

Under current law, a state agency may certify any debt owed to the agency to DOR so that DOR may collect the debt by subtracting the amount of the debt from any tax refund owed to the debtor, but only if the debt has been reduced to a judgment. Under current law, generally, a county or municipality may certify any debt owed to the county or municipality to DOR for a similar collection, if the debt has been reduced to a judgment or if the county or municipality has provided the debtor reasonable notice and an opportunity to be heard with regards to the debt.

Under this bill, a state agency may certify any debt owed to the agency to DOR so that DOR may collect the debt by subtracting the amount of the debt from any tax refund owed to the debtor, if the debt has been reduced to a judgment or if the state agency has provided the debtor reasonable notice and an opportunity to be heard with regards to the debt.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

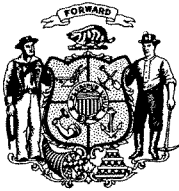
The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 71.93 (1) (a) 1. of the statutes is amended to read:

2 71.93 (1) (a) 1. An amount owed to a state agency ~~that~~, if the amount has been
3 reduced to a judgment or if the state agency has provided the debtor reasonable
4 notice and an opportunity to be heard with regards to the amount owed.

5 **History:** 1987 a. 312; 1989 a. 31; 1993 a. 437; 1995 a. 27 ss. 3427 to 3429, 9126 (19), 9130 (4); 1995 a. 404; 1997 a. 3, 27; 2001 a. 16; 2003 a. 33.

(END)



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-0301/1

JK:jld:rs

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